

ASSEMBLY BILL

No. 2508

Introduced by Assembly Member Fox

February 21, 2014

An act to amend Sections 592 and 1171 of the Code of Civil Procedure, relating to unlawful detainer.

LEGISLATIVE COUNSEL'S DIGEST

AB 2508, as introduced, Fox. Unlawful detainer: trial by jury.

Existing law governs unlawful detainer proceedings, including a requirement that courts give such actions scheduling preference over other civil actions so that the matter may be quickly heard and determined. Existing law requires that an unlawful detainer action be tried by a jury, unless waived by the parties, whenever an issue of fact is presented in the pleadings.

This bill would require specified unlawful detainer actions that present a question of fact in the pleadings to be tried by the court. The bill would require that the court's determination be subject to de novo review by the superior court upon appeal. The bill would require the appeal to be tried by jury, unless waived.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 592 of the Code of Civil Procedure is
- 2 amended to read:
- 3 592. (a) In actions for the recovery of specific, real, or
- 4 personal property, with or without damages, or for money claimed

1 as due upon contract, or as damages for breach of contract, or for
2 injuries, an issue of fact ~~must~~ *shall* be tried by a jury; unless a jury
3 trial is waived, or a reference is ordered, as provided in this Code.
4 Where in these cases there are issues both of law and fact, the issue
5 of law must be first disposed of. In other cases, issues of fact must
6 be tried by the Court, subject to its power to order any such issue
7 to be tried by a jury, or to be referred to a referee, as provided in
8 this Code.

9 *(b) Notwithstanding subdivision (a), an unlawful detainer action*
10 *filed pursuant to Chapter 4 (commencing with Section 1159) of*
11 *Title 3 of Part 3 is not be subject to this section and shall be tried*
12 *by jury as prescribed in Section 1171.*

13 SEC. 2. Section 1171 of the Code of Civil Procedure is
14 amended to read:

15 1171. ~~Whenever an issue of fact is presented by the pleadings,~~
16 ~~it must be tried by a jury, unless such jury be waived as in other~~
17 ~~eases.~~ *(a) Except as provided in subdivision (b), an action that*
18 *presents an issue of fact shall be initially tried by the court, without*
19 *a jury. The court's determination shall be subject to appeal in the*
20 *superior court of the county in which the complaint is filed, and*
21 *shall be tried de novo by a jury, unless a jury trial is waived.*

22 *(b) (1) An action that presents an issue of fact shall be tried by*
23 *a jury in the first instance, unless a jury trial is waived, if either*
24 *of the following apply:*

25 *(A) The amount of the damages claimed exceeds ten thousand*
26 *dollars (\$10,000).*

27 *(B) The action pertains to a written lease that has an unexpired*
28 *term of 30 days or more at the time the complaint is filed.*

29 ~~The~~

30 *(2) The jury shall be formed in the same manner as other trial*
31 *juries in an action of the same jurisdictional classification in the*
32 *Court in which the action is pending.*